

ANDOVER BOARD OF HEALTH
Minutes
August 18, 2008, 6 P.M.
1st Floor Conference Room
36 Bartlet Street

The Board of Health meeting was called to order at 6:07 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Margaret N. Kruse, Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

- **May 12, 2008**

Motion by Ms. Kruse, seconded by Ms. Martin to approve the Minutes of the Meeting of May 12, 2008. Dr. Miller abstained. Majority approval.

- **July 7, 2008**

Motion by Ms. Kruse, seconded by Dr. Miller to approve the Minutes of the Meeting of July 7, 2008. Ms. Martin abstained. Majority approval.

II. Appointments & Hearings

- **6 p.m. – Variance Hearing - Tokyo Tappanyaki Steakhouse – Request to use acidification of rice in lieu of time and temperature requirements** – Present were the restaurant owners Ken and Helen Hoang, and Chris Coleman, the Attorney representing the owners. The Food Code requires rice temperatures to be less than 40°F or more than 140°F. The Variance request is to allow the restaurant to use vinegar to acidify the rice, which inhibits microbial growth. Mr. Carbone stated that he has hired a consultant who has reviewed the application and has recommended some changes. Ms. Patricia Crafts, Health Agent, has been reviewing the plans for the restaurant, and there were some minor issues that still have to be taken care of before the restaurant can be opened. The owners submitted paperwork on how they were going to document and control the process with clear and precise instructions, and the Board members were impressed with the complete package. After discussion of the process and the fact that the process is used successfully in their other restaurants, the Board was convinced that the process would not pose a public health threat.

Motion by Dr. Miller, seconded by Ms. Kruse to approve the Variance to use acidification of rice in lieu of time and temperature requirements with the agreement that any editorial comments or additional information that Agent Crafts needs will be incorporated. Unanimous Approval.

- **Reappointment of Staff –**

- **Board Reorganization** – Mr. Carbone explained that the Board Reorganization is required annually in accordance with the provisions of Massachusetts General Laws, Chapter 111, §27 to elect a Chair, Vice Chair and Clerk.

Motion by Ms. Kruse, seconded by Dr. Miller, to reorganize the Board for the period July 1, 2008 through June 30, 2009 as follows:

- Chairman - **Candace Martin**, Chairman, Andover Board of Health, as provided for in M.G.L. Chapter 111, §27
- Vice Chairman - **Dr. Donald Miller**, Vice Chairman, Andover Board of Health, as provided for in M.G.L. Chapter 111, §27.
- Clerk - **Margaret Kruse**, Clerk, Andover Board of Health, as provided for in M.G.L. Chapter 111, §27.

Unanimous approval.

- **Staff Appointments** - In accordance with the provisions of Massachusetts General Laws, Chapter 111, §30, the Board of Health appoints the following persons to serve as its Agents and Officers for the fiscal period of July 1, 2008 through June 30, 2009, and beyond as necessary to serve at the pleasure of the Board. Said appointments are for regulatory authority only and do not guarantee any salary or fee. Mr. Carbone requested the additional appointments of David Dargie, Construction Inspector, and Thomas Murphy, Contract Inspector, in addition to the staff appointed in past years.

Motion by Ms. Kruse, seconded by Ms. Martin, to appoint agents of the Board for the period July 1, 2008 through June 30, 2009 as follows:

- **Thomas G. Carbone** as Director of Public Health.
- **Joanne Martel, R.N.** as Assistant Director of Public Health/Public Health Nurse.
- **Daniel H. Tremblay** as Sanitarian.
- **Patricia Crafts** as Health Agent.
- **Jane Morrissey, R.N.** as Part Time/Public Health Nurse
- **Ronald Beauregard** as Agent (Health Communities Tobacco Control Program).
- **Robert Douglas** as Agent (Conservation Director)
- **Linda Cleary** as Agent (Conservation Agent).
- **Bruce Hale** as Agent (Plumbing Inspector).
- **Anthony Turiano, M.D.** as Board of Health Physician.

Approved in addition to last year's appointments, for the fiscal period of July 1, 2008 through June 30, 2009:

- **David Dargie** as Agent (DPW Construction Engineer)
- **Thomas Murphy** as Agent (Contract Inspector)

Unanimous approval.

- **Emergency Appointments** - In accordance with the provisions of Massachusetts General Laws, Chapter 111, §30, the Board of Health authorizes the Director of Public Health or the next person in succession to make emergency appointments of Health Agents with the verbal approval of the Chairman of the Board of Health or a member in succession, and the Town Manager. Said appointments shall expire in 7 days unless otherwise extended by the Board of Health, and shall be for emergency purposes only.

Motion by Ms. Kruse, seconded by Ms. Martin, to approve the use of emergency appointments. Unanimous approval.

III. Discussion

- **Food Permit Policy** – Ms. Kruse expressed concern that the section titled “Permits at a Glance” could be a little confusing. Mr. Carbone stated that if a person is confused, they will be encouraged to call the Health Division for clarification, and that is a good thing. Mr. Carbone told the Board that the Plant and Facilities Department thought the Policy would be helpful. The wording in the Bake Sale section was recommended to be changed from “should” to “must”, and several comments were made concerning pizza parties, classroom parties, and ice cream socials. After discussion, Mr. Carbone stated that he will take all comments into consideration and would produce a final Draft for the Board’s approval.
- **Amendment to Fee Schedule – Meningitis Immunization Cost** – Mr. Carbone requested an amendment to the Fee Schedule to raise the cost of the Meningitis Vaccination from \$90.00 to \$95.00 under the authority of M.G.L.c. 111, §31, to cover the increase in the cost of purchasing the vaccine.

Motion by Ms. Kruse, seconded by Ms. Martin to approve the amendment to the Fee Schedule for Meningitis Vaccination from \$90.00 to \$95.00. Unanimous Approval.

- **Set Meeting Schedule for Remainder of Year** – The Board decided on the following dates for the next Board of Health Meetings.
 - October 6, 2008
 - November 3, 2008
 - December 8, 2008

IV. Old Business

- **Pine Forest Subdivision – Remand** - Mr. Carbone explained to the Board that the court will be remanding the case back to the Town of Andover for Planning Board and Board of Health approval because the developer was unable to obtain water service in an Inter-municipal Agreement with the Town of North Reading. Now the developer is looking to install wells for the water supply, and according to the Well Regulations, will need to install three wells for the eleven proposed lots to test for quantity. Testing needs to be done with a Health Agent present at the time of the testing. Mr. Carbone recommended hiring a Peer Review, paid for by the developer, to determine if the water supply is adequate per the remand.

Motion by Dr. Miller, seconded by Ms. Kruse, to authorize Mr. Carbone to require that the developer pay for a Peer Review under our local regulations. Unanimous Approval.

- **2 Carriage Hill Road Septic System** – Mr. Carbone explained to the Board that there has been no resolution to the septic issues at this property. Since the Local Upgrade Approval on the existing plan was rejected by the homeowner, a letter requesting a new plan be submitted to this office within fourteen days was sent via Certified Mail on 7/16/08, but no receipt or signature card was received from the Post Office. The letter was resent on 8/6/08 and the stamped Post office receipt has been received by the Health Division office. No response has been received so far from the homeowner. The Board discussed its options that included giving the homeowner the opportunity to submit a new plan, serving an Eviction Notice, setting up a Condemnation Hearing, or taking the homeowner to court for non-compliance. Mr. Carbone explained if court action was taken, Thomas J. Urbelis, Town Counsel, would file with the Superior Court to get an ORDER to comply with the Board's ORDER to upgrade the system. After discussion, the Board decided that court action was the best way to proceed because the Board felt that the homeowner would not voluntarily comply with its ORDER unless court action was taken.

Motion by Ms. Kruse, seconded by Ms. Martin, to refer this matter to Town Counsel for legal action when there is documentation that the homeowner received the Certified Letter and if no action is taken after the fourteen (14) day period allowed. All in favor. Unanimous approval.

- **I-93 Beavers** – Mr. Carbone told the Board that he met with Mass Highway and DPW and they determined that they could pump the water down to another drainage system further down and let the water flow the way it is designed to so the continuity of the drainage system can be checked. DEP has said that anything that goes on in that area needs to be done under an Emergency Response Action because of the severity of the arsenic in the water and not wanting the arsenic to move. Mass Highway suggested CDM be the entity to oversee this with their Site Professionals, and they are already working with us on this issue. CDM indicated that they should be submitting a workup on the cost estimate for the work by the end of the week

V. Subdivision Definitive Plans

- **Merrimack Estates** – Mr. Carbone updated the Board that he received the final revisions which addressed the DPW drainage issues and offered a solution to the water looping issue. Mr. Carbone recommended approval with two standard conditions.

Motion by Dr. Miller, seconded by Ms. Kruse to approve the Subdivision Definitive Plans for Merrimack Estates with the following conditions:

- 1. Any modification, amendment, or change to the Definitive Plan of Merrimack Estates shall be submitted as a new or modified Definitive Plan in accordance with the provisions of MGL Chapter 41, §81U.*
- 2. Subject to Conservation Commission approval of the Definitive Plan of Merrimack Estates by Order of Conditions or Negative Determination.*

Unanimous Approval

- **Winterberry Lane** – Present were Mr. Chris Huntress, the developer of Winterberry Lane, and Mr. Mark Johnson, Attorney. Mr. Carbone spoke of his comments to the Planning Division concerning the Interdepartmental Review, and told the Board that he met with the two gentlemen to go over some items that affect the issues of the Board and their approval. The subdivision consists of four single family lots located off Woburn Street. Mr. Huntress and Attorney Johnson asked their Civil Engineer to take a look at the questions Tom had concerning the water line and drainage problems, and he put together some responses. The Board read the letter. In response, there was an existing garage that is collapsing and is a health hazard, so the owner will secure the door with a padlock. Also, the trailers in the back of the property will be emptied and removed. The existing barn will be secured and a “No Trespassing” sign will be put up. The Purchase and Sales Agreement with the owners stipulates that these structures have to come down within thirty (30) days of closing.

The most significant issue is the water loop into the Chippy Lane water main. However, when the Planning Board approved that subdivision, the Board did not provide an easement for the abutting property. The abutter whose property the easement has to go through does not want the easement because some trees would have to be removed and they feel it may devalue the property. The Planning Board has agreed to send a letter to the abutter, and the applicant was hoping the Board of Health would do the same. The Board of Health agreed to write a letter also, and Mr. Carbone would take care of that. The abutter has agreed to have another meeting to discuss the easement. Mr. Huntress and Attorney Johnson will continue to work with the Planning Board and DPW on the looping issue to reach an acceptable resolution.

The applicants have agreed to put in a settlement chamber on the upstream side of the retention basin. Under Stormwater standards, no water is allowed to leave the site. If the system was ever overwhelmed, the overflow would go into Woburn Street into their drainage system. Any drainage is subject to a Plan Review with the Planning Board.

Mr. Carbone recommended approval of the Winterberry Lane Subdivision with certain conditions.

Motion by Ms. Martin, seconded by Ms. Kruse to approve the Subdivision Definite Plans for Winterberry Lane with the following conditions:

1. *That any modifications or amendments come back in front of the Board as a Modified Definitive Plan.*
2. *That the water line will be looped to meet DPW approval.*
3. *That a settlement chamber design will be installed in the drainage system.*
4. *That any overflow for drainage is approved by the DPW.*

Unanimous Approval

- **Taylor Cove, River Street (40-B Development)** – Mr. Carbone informed the Board that this is a 40-B Project off of River Street. There are concerns because of the location on River Street and the amount of traffic on that street. Mr. Carbone stated that the police looked at the site and said that with a little bit of clearing, the site line would be opened up. This was an approved standard sub-division that has an Order of Conditions. The big issue is that they have requested waivers to our local regulations concerning sewerage. Mr. Carbone put together a primer for the Board of Appeals explaining why it is important that they do not grant a blanket waiver to the regulations because we would then have no way to regulate how they install the sewer or how the sewer is designed and permitted. There are no state design standards, and we would probably have to fall back on to what a standard professional judgment would be as opposed to how we regulate this. If we grant the waivers, it takes away how we permit the sewer installation, and we would not have the ability to review plans before installation. If they want anything specific, then they should request specific waivers and the reason for each request.

No action was required from the Board at this time.

VI. Plan Review

- **D.W.R.P. Variances/Local Upgrade Approvals –**

Ms. Martin moved to approve, seconded by Ms. Kruse. The Board voted unanimously to approve the following Local Upgrade Approvals (LUA) and to ratify the LUA for 35 Noel Road:

- **35 Noel Road – LUA to allow 4' separation to SHWT where 5' is required (ratify)**
- **33 Chandler Road – LUA to allow SAS to be 4' above SHWT, where 5' is required.**
- **56 Brundrett Avenue – LUA to allow 3' separation to SHWT where 4' is required.**
- **56 Prospect Road - LUA to allow 3' separation to SHWT where 4' is required.**

- **52 Pleasant Street - LUA to allow 4' separation to SHWT where 5' is required; allow tank inverts to be <12" above the water table.**

Unanimous approval.

A. B.S.I.P. – Ratify:

Ms. Martin moved to ratify, seconded by Dr. Miller. The Board voted unanimously to ratify the following BSIP's:

106	Abbot Street	TM	76	TL	10
12	Carter Lane	TM	121	TL	1E
69	Cross Street	TM	206	TL	2E
30	Holt Road	TM	42	TL	33
81	Holt Road	TM	59	TL	20
40	Railroad Street	TM	54	TL	4
120	Salem Street	TM	26	TL	3
4	Trevino Circle	TM	87	TL	27
2	West Knoll Road	TM	59	TL	6

Unanimous approval.

C. S.S.A.P – Recommend Approval:

Ms. Martin moved to approve, seconded by Ms. Kruse. The Board voted unanimously to approve the following SSAP's with the condition of Conservation Commission approval for 10 Bancroft Road.

106	Abbot Street	TM	76	TL	10
Pending Cons Com Approval:					
10	Bancroft Road	TM	58	TL	24
12	Carter Lane	TM	121	TL	1E
3	Chapel Avenue	TM		TL	
69	Cross Street	TM	206	TL	2E
30	Holt Road	TM	42	TL	33
81	Holt Road	TM	59	TL	20
5	Maple Court	TM	38	TL	145
27	Vine Street	TM	44	TL	28

Unanimous approval.

D. S.S.U.P.– Recommend Approval:

Ms. Martin moved to approve, seconded by Ms. Kruse. The Board voted unanimously to approve the following SSUP's:

106	Abbot Street	TM	76	TL	10
3	Charles Circle	TM	63	TL	16E
120	Salem Street	TM	26	TL	3

Unanimous approval.

E. B.S.R.P. – Recommend Approval:

Ms. Martin moved to approve, seconded by Ms. Kruse. The Board voted unanimously to approve the following BSRP:

3 Chapel Avenue

Unanimous approval.

VII. Staff Reports

A. Director's Report:

- **Important Dates:**
 - September 13th – TBD – Regional Emergency Preparedness Drill
 - September 15th @ 6 p.m. – BOH Meeting
 - September 16, FBWAC Meeting
- **ICMA Performance Measures** – Mr. Carbone explained to the Board that the Town was going to begin participation in a national program that will serve as a benchmark for performance measurement in code enforcement. A meeting of the Community Development and Planning Department has been set up to determine how the data should be collected. The Health Division already has a program set up for monthly reports and all complaints we receive are tracked on a spreadsheet.

B. Nurses' Report for July, 2008 – The Nurses' Report was for informational purposes only.

- **Vaccine Management Business Improvement Project (VMBIP)** – Mr. Carbone explained that the nurses helped distribute vaccine to local doctor's

offices, but now the vaccines will be shipped directly to the doctors. This change has freed up a lot of time for the nurses.

- **Andover Townsman Article Concerning E-Coli** – Mr. Carbone praised Ms. Martel for her input into the article concerning the recent e-coli outbreak. Mr. Carbone stressed the importance of cooking ground beef well enough to kill the e-coli bacteria.

C. Inspectors' Reports for July, 2008 – The Inspectors' Reports were for informational purposes only.

VIII. Board Member Reports:

- **Salt Shed Update** – Ms. Martin asked for an update on the relocation of the Salt Shed. Mr. Carbone explained that the Eagle Tribune interviewed Andrea Leary from TMA as well as Steve Boynton. The businesses on River Road are opposed to the Salt Shed being moved near them. Mr. Carbone wants to meet with Patricia Levenworth from Mass Highway to discuss why this location was picked, but was having trouble setting up a meeting with her. Ms. Kruse suggested that we should have some of our representatives present if a meeting is set up; possibly State Representatives Barry Finegold and Barbara L'Italien, as well as Senator Susan Tucker.
- **Casco Crossing** – Mr. Carbone informed the Board that on Friday Ms. Crafts issued the permit for the Semi-Public pool.

IX. Adjournment

Motion by Ms. Kruse, seconded by Dr. Miller, to adjourn at 8:00 p.m. Unanimous approval.